

§ 39.21 Future considerations for weighted programs.

(a) Within twelve months of the final publication of this rule, the Director shall review the following factors in depth, and determine whether to incorporate each into the weighted pupil formula:

- (1) A rural isolation adjustment.
- (2) A staff cost adjustment.
- (3) A gifted and talented student program.
- (4) A vocational education program.
- (5) A facilities operation and maintenance program.
- (6) Additional institutional size factors.

(b) The Director may also recommend incorporation of other factors, based upon the Bureau's experience in the first year's operation of the ISEP, and upon the Standards to be developed under section 1121 of the Act.

(c) The Director shall also review the adequacy of the weighted factors, procedures, criteria and definitions now in this rule, throughout part 39. On the basis of this review, the Director shall present a comprehensive report of findings, with recommendations for amendment of this rule, to the Secretary, who shall incorporate them in a Notice of Proposed Rulemaking to include a minimum of sixty (60) days for public comment.

§ 39.22 Authorization of new program development, and termination of programs.

(a) Within one year of the final publication of this rule, the Secretary shall develop uniform procedures and criteria for the authorization of new schools where no Bureau funded or operated school program has previously existed, and for authorization of expansions of existing Bureau funded or operated school programs to serve additional age groups not previously served. These procedures and criteria shall be published as amendments to this rule under a new Notice of Proposed Rulemaking, which shall contain provisions for a minimum of sixty (60) days of public review and comment prior to final publication.

(b) Procedures and criteria developed under this section shall be integrated with existing procedures under 25 CFR

part 900 for determining contractable functions of the Bureau, in order to produce a coherent system for authorization of Tribally initiated program development under contracting procedures of Pub. L. 93-638, which is compatible with Bureau initiated program development.

(c) Procedures and criteria developed under this rule shall also contain provisions for making decisions regarding closing schools and terminating Bureau programs of education. These shall provide for full consultation with the Indian persons and Tribes served by the programs and schools involved in any such decisions.

[44 FR 61864, Oct. 26, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 64 FR 13895, Mar. 23, 1999]

§ 39.23 Review of contract schools supplemental funds.

Before the end of formula phase-in, the Director shall consider the impact on equalization of supplemental funds appropriated for aid to schools under the Johnson O'Malley Act and under title IV of the Indian Education Act, which are available to contract schools but not to Bureau schools, and determine appropriate adjustments, if any. Any adjustments in the ISEP which results from this review shall be effected by formal revision of this rule, under a Notice of Intended Rulemaking published in the FEDERAL REGISTER, and shall be subject to public comment for a minimum of sixty (60) days prior to final rulemaking.

Subpart C—Formula Funding Administrative Procedures**§ 39.30 Definitions.**

As used in this subpart, the term:

(a) *Certifying the validity of student counts* means that counts of student ADM have been accurately recorded in compliance with specifications of these rules, and that the Agency Superintendent of Schools, the local school supervisor, and local school board chairperson, where a school board exists, testify to and confirm the correctness of this count.